

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

13-59961-D
(Chapter 7)

Gano, David & Mary
Debtor(s).

Hon. Walter Shapero

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TRUSTEE'S OBJECTIONS TO EXEMPTIONS

The Trustee states:

1. The debtor(s) has exempted certain property on Schedule C of the bankruptcy schedules.
2. The Trustee hereby objects to the following exemptions for the following reasons:
The debtors have taken exemptions on assets whose values exceed the limits allowed under 11 USC §522(d)(5). To the extent that these values the allowable limits, the Trustee objects to those exemptions taken.

In addition, to the extent that any contributions to debtor's pension plan are voidable as voidable conveyances, the Trustee objects to the pension plan exemption taken under 11 USC §522(d)(12).

Dated: 12/30/2013

/s/ Douglas Ellmann
Douglas S. Ellmann (P34617)
Ellmann & Ellmann PC
Attorneys for Trustee
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ORDER APPROVING OBJECTIONS TO EXEMPTIONS

This matter having come on to be heard upon the Trustee's Objections to Exemptions and the Court having reviewed it and being otherwise fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED that the Trustee's Objections to Exemptions are granted, the exemption(s) objected to are disallowed, and the Trustee may administer the (Property) described in the objection for the benefit of the estate.

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NOTICE OF TRUSTEE'S OBJECTION TO EXEMPTIONS

Ellmann & Ellmann P.C. has filed papers with the court to disallow certain of your exemptions.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to approve the attorney fees for or if you want the court to consider your views on the motion application. Within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:
United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, MI 48226

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:
Douglas S. Ellmann
308 W. Huron
Ann Arbor, MI 48103

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: 12/30/2013

/s/ Douglas Ellmann
Douglas S. Ellmann (P34617)
Ellmann & Ellmann PC
Attorneys for Trustee
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BRIEF IN SUPPORT OF TRUSTEE'S OBJECTION TO DEBTOR'S EXEMPTION(S)

Douglas Ellmann, Trustee, relies upon the following in support of his objection(s):

11 USC §522(d)(5) and 522 (d)(12). In addition, *In re Loomer*, 222 BR 618 (Neb. Bkrcty. 1998).

A bankruptcy trustee may avoid the transfer of any property interest of a debtor that was made within one year before the filing of a bankruptcy petition if the debtor made the transfer with an intent to hinder, delay, or defraud any entity to which it was indebted on or after the date that the transfer occurred. Am. Jur. 2d, Bankruptcy § 2020 This rule has been applied to permit a bankruptcy trustee to avoid contributions made by a physician to a profit-sharing plan after the physician allowed his medical malpractice insurance to lapse and, thus, assumed the risk for any possible malpractice claims, on the grounds that it would have been unjust to allow the physician to shield contributions to a plan governed by ERISA from malpractice claimants. *Matter of La Fata*, 41 B.R. 842 (Bankr. E.D. Mich. 1984). Michigan law allows for the avoidance of fraudulent transfers or conversions of non-exempt property into exempt property. See, e.g. *In re Elkins*, 94 B. R. 932 (Bankr. W.D. Mich. 1988); *Glazer v. Beer*, 343 Mich. 495, 498 (1955); *McCaslin v. Schouten*, 294 Mich. 180 (1940).

Dated: 12/30/2013

/s/ Douglas Ellmann_P34617

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Certificate of Service

The objection to debtor's exemptions, brief in support, 14 day notice, and certificate of service were served upon the debtor via counsel of record, counsel of record, and the US Trustee via electronic case filing:

Dated: 12/30/2013

/s/ Douglas Ellmann

Douglas S. Ellmann (P34617)
Ellmann & Ellmann PC
Attorneys for Trustee
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